

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**JAMES K. BENEFIELD and DONALD)
RAY JOHNSON, individually and on)
behalf of others similarly situated,)**

Plaintiff,)

v.)

No.: 2:09-cv-232-WHA (WO)

**INTERNATIONAL PAPER COMPANY, a)
New York corporation (Alabama No. F/C)
853-624),)**

Defendant.)

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

J. Edward Bell, III (*Pro Hac Vice*)
BELL LEGAL GROUP
232 King Street
Georgetown, South Carolina 29440

Gregory A. Cade, State Court ID No. CAD010
ENVIRONMENTAL LITIGATION GROUP, P.C.
3529 Seventh Avenue South
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COME NOW, Plaintiffs and respectfully move this Court to enter an order certifying this case as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. Plaintiffs are property owners whose properties have been contaminated by International Paper's continuing tort of the release of toxic waste, identified with more particularly herein, from defendant International Paper's manufacturing facility in Prattville, Alabama. Plaintiffs' case is well suited for class treatment as it more than satisfies all the requirements of Rule 23. The proposed class consists of over 1,500 of property owners whose claims arise from the same source of conduct -- International Paper's release of toxic waste and are based on the same legal theories. The proposed class has been harmed in the same way in that International Paper's toxic emissions have contaminated their properties and their injuries can be adequately ascertained and addressed by class-wide relief.

Plaintiffs James K . Benefield and Donald Ray Johnson bring this action on behalf of themselves and the following class:

All persons who on the date of the filing of the Complaint or Second Amended Complaint:

- (a) owned real property located in whole, or in part, within two miles of the outer boundary of the Facility;
- (b) which was contaminated by the Hazardous Substances, Particulate Matter, and/or Noxious Odors released into the environment from the Facility; and
- (c) who suffered damages as a result in the form of a diminution in value of the real property.

The Class Area is shown on the map attached hereto as Exhibit “A” and is broadly defined as an area extending two miles from the outer fence of the International Paper Facility and more precisely as being bound by Main Street, Lipscomb Road, County Line, Washington Ferry Rd., Autauga County 29 and Grouby Airport Road.

Excluded from this class are:

- (a) all persons owning contaminated real property within the Class Area who have suffered any personal injury as a proximate result of the Hazardous Substances, Particulate Matter, and/or Noxious Odors;
- (b) all employees, officers, directors, legal representative, heirs, successors, and assigns of International Paper.
- (c) all Plaintiffs in Brantley et al., v. International Paper, 2:09-cv-230-WHA-TFM (U.S.D.C. Ala);

Plaintiffs also request that Plaintiffs James K . Benefield and Donald Ray Johnson be named as appropriate class representatives;

Lastly, Plaintiffs request that J Edward Bell and Gregory A. Cade be designated as Lead Class Counsel and that the following law firms be named as class counsel:

J. Edward Bell, Esq.
Ryan Heiskell, Esq.
The Bell Legal Group
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CONCLUSION

Plaintiffs respectfully that this Court certify the proposed Class.

/s/ J. Edward Bell, III

J. Edward Bell, III (*Pro Hac Vice*)

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/s/ Gregory A. Cade

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ATTORNEYS FOR THE PLAINTIFFS

NOTICE OF HEARING

The above *Brief in Support of Plaintiffs' Motion for Class Certification* is set for hearing before the Honorable _____. on _____, 2010 at 10:00 a.m.

/s/ Gregory A. Cade

Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2010, I caused the foregoing *Plaintiffs' Motion for Class Certification* to be electronically filed with the Clerk of the Court using the ECF system and notification of such filing to send to all counsel of record.

/s/ Gregory A. Cade

Of Counsel